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SPEECH

OF

HON. STEPHEN A. DOUGLAS,

ON THE

"MEASURES OF ADJUSTMENT,"

DELIVERED IN THE CITY HALL, CHICAGO, OCTOBER 23, 1850.

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PREFACE.

The following speech was made under peculiar circumstances. The two Senators from Illinois had sustained all the measures of adjustment. Upon his return home, Mr. Douglas found that the provisions of the Fugitive bill had been so grossly misrepresented, that public opinion was loud and fierce in its condemnation. The common council of the city of Chicago, in their official capacity, passed resolutions denouncing the law as a violation of the Constitution of the United States and of the higher law of God, and those Senators and Representatives who voted for it, and also those who were absent and consequently did not vote against it, as traitors, Benedict Arnolds, and Judas Iscariots. The council also released the "citizens, officers, and police of the city" from all obligation to assist or participate in the execution of the law, and declared that "it ought not to be respected by any intelligent community." On the next night, a mass meeting of the citizens was held for the purpose of approving and sanctioning the action of the common council, and organizing violent and successful resistance to the execution of the law. A committee reported to this meeting a series of resolutions more revolutionary in their character, and going to a greater extent in resisting the authority of the Federal Government, than even those of the common council. Numerous speeches, in support of the resolutions, were received with boisterous and furious applause, pledging their authors to resist even unto the dungeon and the grave. At length Mr. Douglas, being the only member of the Illinois delegation then in the city, appeared upon the stand, and stated, that in consequence of the action of the common council and the phrenzied excitement which seemed to rage all around him, he desired to be heard before the assembled people of the city in vindication of all the measures of adjustment, and especially of the Fugitive Slave law. He said he would not make a speech that night, because the call for the meeting was not sufficiently broad to authorize a speech in *defence* of those measures; but he would avail himself of that opportunity to give notice that on the next night he would address the people of Chicago upon these subjects. He invited men of all parties and shades of opinion to attend and participate in the proceedings, and assured them that he would answer every objection made, and every question which should be propounded, touching the measures of adjustment, and especially the Fugitive bill. After further discussion, and much confusion and opposition, the meeting was induced to adjourn, and hear Mr. Douglas's defence before they would condemn him. In the mean time, the excitement continued to increase, and the next night (Oct. 23d) a tremendous concourse of people assembled —by far the largest meeting ever held in the city—and Mr. Douglas delivered a speech, of which the following is a fair and tolerably good report, so far as to embrace the argument, omitting necessarily numerous incidents which could not be preserved by the reporter. The meeting then resolved *unanimously* to faithfully carry into effect the provisions of the Fugitive Slave law, and to perform every other duty and obligation under the Constitution of the United States. The meeting also adopted, with only eight or ten dissenting voices, a resolution repudiating the action of the common council, and then adjourned with nine cheers—three for Douglas, three for the Constitution, and three for our glorious Union. On the next night, the common council of the city of Chicago again assembled, and repealed their nullifying resolutions by a vote of 12 to 1.

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SPEECH.

Mr. DOUGLAS, said:

The agitation on the subject of Slavery now raging through the breadth of the land presents a most extraordinary spectacle. Congress, after a protracted session of nearly ten months, succeeded in passing a system of measures, which are believed to be just to all parts of the Republic, and ought to be satisfactory to the people. The South has not triumphed over the North, nor has the North achieved a victory over the South. Neither party has made any humiliating concessions to the other. Each has preserved its honor, while neither has surrendered an important right, or sacrificed any substantial interest. The measures composing the scheme of adjustment are believed to be in harmony with the principles of justice and the Constitution.

And yet we find that the agitation is re-opened in the two extremes of the Union with renewed vigor and increased violence. In some of the Southern States, special sessions of the Legislatures are being called for the purpose of organizing systematic and efficient measures of resistance to the execution of the laws of the land, and for the adoption of Disunion as the remedy. In the Northern States, municipal corporations, and other organized bodies of men, are nullifying the acts of Congress, and raising the standard of rebellion against the authority of the Federal Government.

At the South, the measures of adjustment are denounced as a disgraceful surrender of Southern rights to Northern abolitionism.

At the North, the same measures are denounced with equal violence as a total abandonment of the rights of freemen to conciliate the slave power.

The Southern disunionists repudiate the authority of the highest judicial tribunal on earth, upon the ground that it is a pliant and corrupt instrument in the hands of Northern fanaticism.

The Northern nullifiers refuse to submit the points at issue to the same exalted tribunal, upon the ground that the Supreme Court of the United States is a corrupt and supple instrument in the hands of the Southern slave-ocracy.

For these contradictory reasons the people in both sections of the Union are called upon to resist the laws of the land, and the authority of the Federal Government, by violence, even unto death and disunion.

Strange and contradictory positions!

Both cannot be true, and I trust in God neither may prove to be. We have fallen on evil times, when passion, and prejudice, and ambition, can so blind the judgments and deaden the consciences of men, that the truth cannot be

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seen and felt. The people of the North, or the South, or both, are acting under a fatal delusion. Should we not pause, and reflect, and consider, whether we, as well as they, have not been egregiously deceived upon this subject? It is my purpose this evening to give a candid and impartial exposition of these measures, to the end that the truth may be known. It does not become a free people to rush madly and blindly into violence, and bloodshed, and death, and disunion, without first satisfying our consciences upon whose souls the guilty consequences must rest.

The measures, known as the Adjustment or Compromise scheme, are six in number:

1. The admission of California, with her free constitution.

2. The creation of a Territorial government for Utah, leaving the people to regulate their own domestic institutions.

3. The creation of a Territorial government for New Mexico, with like provisions.

4. The adjustment of the disputed boundary with Texas.

5. The abolition of the slave trade in the District of Columbia.

6. The Fugitive Slave bill.

The first three of these measures—California, Utah, and New Mexico—I prepared with my own hands, and reported from the Committee on Territories, as its chairman, in the precise shape in which they now stand on the statute book, with one or two unimportant amendments, for which I also voted. I, therefore, hold myself responsible to you, as my constituents, for those measures as they passed. If there is anything wrong in them, hold me accountable; if there is anything of merit, give the credit to those who passed the bills. These measures are predicated on the great fundamental principle that every people ought to possess the right of forming and regulating their own internal concerns and domestic institutions in their own way. It was supposed that those of our fellow citizens who emigrated to the shores of the Pacific and to our other territories, were as capable of self-government as their neighbors and kindred whom they left behind them; and there was no reason for believing that they have lost any of their intelligence or patriotism by the wayside, while crossing the Isthmus or the Plains. It was also believed, that after their arrival in the country, when they had become familiar with its topography, climate, productions, and resources, and had connected their destiny with it, they were fully as competent to judge for themselves what kind of laws and institutions were best adapted to their condition and interests, as we were who never saw the country, and knew very little about it. To question their competency to do this, was to deny their capacity for self-government. If they have the requisite intelligence and honesty to be intrusted with the enactment of laws for the government of white men, I know of no reason why they should not be deemed competent to legislate for the negro. If they are sufficiently

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enlightened to make laws for the protection of life, liberty, and property—of morals and education—to determine the relation of husband and wife, of parent and child—I am not aware that it requires any higher degree of civilization to regulate the affairs of master and servant. These things are all confided by the Constitution to each State to decide for itself, and I know of no reason why the same principle should not be extended to the Territories. My votes and acts have been in accordance with these views in all cases, except the instances in which I voted under your instructions. Those were your votes, and not mine. I entered my protest against them at the time—before and after they were recorded—and shall never hold myself responsible for them. I believed then, and believe now, that it was better for the cause of freedom, of humanity, and of republicanism, to leave the people interested to settle all these questions for themselves. They have intellect and consciences as well as we, and have more interest in doing that which is best for themselves and their posterity, than we have as their self-constituted and officious guardians. I deem it fortunate for the peace and harmony of the country that Congress, taking the same view of the subject, rejected the Proviso, and passed the bills in the shape in which I originally reported them. So far as slavery is concerned, I am sure that any man who will take the pains to examine the history of the question, will come to the conclusion that this is the true policy, as well as the sound republican doctrine. Mr. DOUGLAS here went into a historical view of the subject, to show that Slavery had never been excluded in fact from one inch of the American Continent by act of Congress. When the Federal Constitution was formed in '87, twelve of the thirteen States, then composing the Confederation, held slaves, and sustained the institution of slavery by their laws. Since that period slavery had been abolished in six of these twelve original slave States. How was this effected? Not by an act of Congress. Not by the interposition of the Federal Government. Congress had no power over the subject, and never attempted to interfere with it. Slavery was abolished in those States by the people of each, acting for themselves, and upon their own motion and responsibility. The people became convinced that it was for their own interests, and the interests of their posterity, pecuniarily and morally, and they did it of their own free will, and rigidly enforced their own laws.

So it was in the territory northwest of the Ohio river. By the act of Congress, known as the Ordinance of '87, slavery was prohibited by LAW, but not excluded *in fact*. Slavery existed in the Territories of Illinois and Indiana, in spite of the ordinance, under the authority of the territorial laws. Illinois was a slaveholding Territory in defiance of the act of Congress, but became a free State by the action of our own people, when they framed our State constitution, preparatory to their admission into the Union. So it was with Indiana. Oregon prohibited slavery by the action of her people under their provisional govern-

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ment, several years before Congress established a territorial government. In short, wherever slavery has been excluded, and free institutions established, it has been done by the voluntary action of the people interested. Wherever Congress attempted to interfere in opposition to the wishes of the people of the territory, its enactments remained a dead letter upon the statute book, and the people took such legislative action as comported with their inclinations and supposed interests.

Mr. DOUGLAS then referred to the country acquired from Mexico, and called the attention of the audience to the fact that the abolitionists had all predicted that slavery would certainly be introduced into those territories, unless Congress interfered and prohibited it by law, and condemned him because he was opposed to such interference. The problem is now solved. What was then a matter of opinion and disputation, has become an historical fact. Time has settled the controversy, and shown who was right and who was wrong. The Wilmot Proviso was not adopted. Congress did not prohibit slavery in those territories, and yet slavery does not exist in them. In California, it was prohibited by the people in the constitution with which that State was admitted into the Union. It is well known that the people of New Mexico, when they formed a constitution with the view of asking admission, also prohibited slavery. These facts show conclusively that all the predictions of the abolitionists upon this subject have been falsified by history, and that my own have been literally fulfilled. I refer to these facts, not in the spirit of self-gratulation, but to show that these men, who have alarmed the friends of freedom, and for a time partially controlled the popular sentiment, were themselves mistaken, and misled their followers; at the same time that their doctrine was at war with the whole spirit of our republican institutions.

But let us return to the measures immediately under discussion. It must be conceded that the question of the admission of California was not free from difficulty, independent of the subject of slavery. There were many irregularities in the proceedings; in fact, every step in her application for admission was irregular, when viewed with reference to a literal compliance with the most approved rules and usages in the admission of new States. On the other hand, it should be borne in mind that this resulted from the necessity of the case. Congress had failed to perform its duty—had established no territorial government, and made no provision for her admission into the Union. She was left without government, and was therefore compelled to provide one for herself. She could not conform to rules which had not been established, nor comply with laws which Congress had failed to enact. The same irregularities had occurred, however, and been waived, in the admission of other States under peculiar circumstances. True, they had not all occurred in the case of any one State; but some had in one, others in another; so that, by looking into the circumstances attending the admission of each of the new States, we find that all of these

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irregularities, as they are called, had intervened and been waived in the course of our legislative history. Besides, the territory of California was too extensive for one State, (if we are to adopt the old States as a guide in carving out new ones,) being about three times the size of New York; and her boundaries were unnatural and unreasonable, disregarding the topography of the country, and embracing the whole mining region and her coast in the limits. Thus it will be seen that the slavery question was not the only real difficulty that the admission of California presented to the minds of calm and reflecting men; although it cannot be denied that it was the exciting cause, which stimulated a large portion of the people in one section to demand her instant admission, and in the other, to insist upon her unconditional rejection. Even in this point of view, I humbly conceive that the ultras in each extreme of the Republic acted under a misconception of their true interests and real policy. The whole of California–from the very nature of the country, her rocks and sands, elevation above the sea, climate, soil, and productions—was bound to be free territory by the decision of her own people, no matter when admitted or how divided. Hence, if considered with reference to the preponderance of political power between the free and slaveholding States, it was manifestly the true policy of the South to include the whole country in one State; while the same reasons should have induced the North to subdivide it into as many States as the extent of the territory would justify. But, in my opinion, it was not proper for Congress to act upon any such principle. We should know no North, no South, in our legislation; but look to the interests of the whole country. By our action in this case, the rights and privileges of California and the Pacific coast were principally to be affected. By erecting the country into one State instead of three, the people are to be represented in the Senate by two in the place of six Senators. If their interests suffer in consequence, they can blame no one but themselves; for Congress only confirmed what they had previously done. The problem in relation to slavery should have been much more easily solved. It was a question which concerned the people of California alone. The other States of the Union had no interest in it, and no right to interfere with it. South Carolina settled that question within her own limits to suit herself; Illinois has decided it in a manner satisfactory to her own people; and upon what principle are we to deprive the people of the State of California of a right which is common to every State in the Union?

The bills establishing territorial governments for Utah and New Mexico are silent upon the subject of slavery; except the provision that, when they should be admitted into the Union as States, each should decide the question of slavery for itself. This latter provision was not incorporated in my original bills, for the reason that I conceive it to involved a principle so clearly deducible from the Constitution that it was unnecessary to embody it in the form of legal enactment. But when it was offered as an amendment to the bills, I cheer-

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fully voted for it, lest its rejection should be deemed a denial of the principle asserted in it. The abolitionists of the North profess to regard these bills as a total abandonment of the principles of freedom, because they do not contain an express prohibition of slavery; while the ultras of the South denounce the same measures as equivalent to the Wilmot Proviso.

Of the Texas boundary I have but little to say, for the reason that I have scarcely heard it alluded to since my return home, although many complaints are made against it in other portions of the free States. It was an unfortunate dispute, which could result in no practical benefit to either party, no matter how decided. The territory in controversy was of no considerable value. If there was a spot upon the face of the American continent more worthless than any other; if there was a barren waste more desolate—sands more arid, and rocks more naked than all others—it was the country in dispute between Texas and the United States. Distant from navigation, and almost inaccessible for want of means of communication; void of timber, fuel, water or soil, with the exception of here and there a nook in the gorges of the mountains; it was entirely useless, save as it afforded hiding places for the wild and roaming savages. And yet the controversy was none the less serious and fierce in consequence of the barrenness of the country. Texas believed it to be hers, and deemed it a point of honor to maintain her title at all hazards and against all odds. Many of the States entertained doubts of the validity of the Texan claim, while others considered it entirely without foundation. In this state of the case, each party having partial possession, was mustering troops to render its possession complete to the exclusion of the other. Many of the slaveholding States, from sympathy with the peculiar institutions of Texas, were preparing to array themselves on the one side; while most of the free States, from aversion to those institutions, were expected to array themselves on the other. Thus were we plunging headlong and madly into a civil war, involving results which no human wisdom could foresee, and consequences which could be contemplated only with horror.

Fortunately this unnatural struggle was averted by the timely and judicious interposition of Congress. The Committee on Territories, to whom the subject had been referred, found it impossible to ascertain and agree upon the true boundary line of Texas, and accordingly authorized me, as their chairman, to report a bill for adjusting the boundary upon an arbitrary but convenient line, drawn through the centre of the Desert, and to pay Texas ——— dollars for relinquishing her claim to the waste lands outside of that line. I, therefore, reported this provision, at the same time that I brought in the bills for California, Utah, and New Mexico, with the intention of moving to fill the blank with ten millions of dollars. When the Committee of Thirteen, which was subsequently appointed, united into one the several bills which had been reported by the Committee on Territories, and thus formed what has been known

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as the "Omnibus Bill," they made a slight change in the line which had been agreed upon by the Territorial committee. Upon the defeat of the Omnibus, Mr. PIERCE, of Maryland, brought in a separate bill for adjusting this boundary, predicated upon the principle, also, of an arbitrary but convenient line through the Desert, changing the courses, however, so as to obviate some objections which have been urged to the others, and paying Texas ten millions of dollars for relinquishing her claim. This bill, after having been joined in the House of Representatives to the bill establishing a Territorial government for New Mexico, passed both Houses, and became the law of the land. The people of Texas have since ratified it at the polls by an overwhelming majority; and thus this dangerous element of agitation has been withdrawn from the controversy by the mutual assent of the parties. And yet there are organized parties, in both extremes of the Union, who are striving to re-open the controversy by persuading the people that the rights and interests of theirown particular section have been basely betrayed in the settlement of this question. At the South, it is boldly proclaimed, and every where repeated, that sixty thousand square miles of *slave-territory* have been sold and converted into *free-soil.* On the other hand, the Northern nullifiers and Abolitionists are industriously impressing it upon the people that more than fifty thousand square miles of *free-soil* have been transferred to Texas, and converted into *slave-territory* by the act of Congress adjusting the Texas boundary. Such are the extremities to which prejudice and ambition can lead desperate men! Neither party has gained or lost any thing, so far as the question of slavery is concerned. Texas has gained ten millions of dollars, and the United States have saved, in blood and treasure, the expenses of a civil war.

The next in the series of measures was the bill for the abolition of the slave trade in the district of Columbia. This bill was prepared and reported by the Committee of Thirteen, and I gave it my cordial support. It has been represented at the South as a concession to the North, to induce us to perform our duties under the Constitution in the surrender of fugitives from labor, and much opposition has been raised against the whole scheme of adjustment on that account. I did not regard it in that light. My vote was given upon no such considerations. I believed each of the measures substantially right in itself, and, under the extraordinary circumstances by which we were surrounded, eminently wise and expedient. The bill does not abolish slavery in the district—does not emancipate the few slaves that are there, and interferes with no man's right of property. It simply provides that slaves shall not be brought from the surrounding States, or elsewhere, into the district for sale. In this respect, Congress only followed the example of the legislatures of Maryland, North Carolina, Kentucky, and, in fact, most of the slaveholding States. The country embraced within the limits of the District of Columbia, therefore, stands in precisely the same relation to the slave trade under this law, that it

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would have stood under the laws of Maryland, if it had never been separated from that State. What justification can there be, then, for the assertion that this was a concession to the North? It does nothing more nor less than to apply the general principles of the legislation of a majority of the Southern States to the District of Columbia. But, while it was no concession from one section to the other, I had a right to expect that those modern philanthropists who have declaimed so eloquently and violently against the disgrace of the National Capitol, by the slave trade within its precincts, would have rejoiced with exceeding joy at the passage of this act. I have listened in vain for one word of approval or commendation from the advocates of abolition and nullification. While the whole series of Compromise measures are denounced in coarse and unmeasured terms, not one word of congratulation to the friends of freedom—not a word of approval of the act or of the conduct of those who voted for it—is allowed to escape their lips. All the other measures of the scheme of adjustment are attempted to be kept in the back ground, and concealed from the public view, in order that more prominence and importance may be given to what they are pleased to call "THE INFAMOUS FUGITIVE SLAVE BILL."

Before I proceed to the exposition of that bill, I will read the preamble and resolutions passed by the common council of this city, night before last.

Mr. Douglass then read as follows:

Whereas, The Constitution of the United States provides that the privilege of the writ of Habeas Corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it; and,

Whereas, The late act of Congress, purporting to be for the recovery of fugitive slaves, virtually suspends the Habeas Corpus and abolishes the right of trial by jury, and by its provisions, not only fugitive slaves, but white men, "owing service" to another in another State, viz., the apprentice, the mechanic, the farmer, the laborer engaged on contract or otherwise, whose terms of service are unexpired, may be captured and carried off summarily, and without legal resource of any kind; and,

Whereas, No law can be legally or morally binding on us which violates the provisions of the Constitution; and,

Whereas, Above all, in the responsibilities of human life, and the practice and propagation of Christianity, the laws of God should be held paramount to all human compacts and statutes: Therefore,

Resolved, That the Senators and Representatives in Congress from the Free States, who aided and assisted in the passage of this infamous law, and those who basely sneaked away from their seats, and thereby evaded the question, richly merit the reproach of all lovers of freedom, and are fit only to be ranked with the traitors, Benedict Arnold and Judas Iscariot, who betrayed his Lord and Master for thirty pieces of silver.

And Resolved, That the citizens, officers, and police of the city be, and they are hereby, requested to abstain from any and all interference in the capture and delivering up of the fugitive from unrighteous oppression, of whatever nation, name, or color.

Resolved, That the fugitive slave law lately passed by Congress is a cruel and unjust law, and ought not to be respected by any intelligent community, and that this Council will not require the city police to render any assistance for the arrest of fugitive slaves.

AYES—Ald. Milliken, Loyd, Sherwood, Foss, Throop, Sherman, Richards, Brady, and Dodge.

NAYS—Ald. Page and Williams.

But for the passage of these resolutions, said Mr. D., I should not have addressed you this evening, nor, indeed, at any time before my return to the Capitol. I have no desire to conceal or withhold my opinions, no wish to avoid the responsibility of a full and frank expression of them, upon this and all other subjects which were embraced in the action of the last session of Congress.

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My reasons for wishing to avoid public discussion at this time, were to be found in the state of my health and the short time allowed me to remain among you.

Now to the resolutions. I make no criticism upon the language in which they are expressed; that is a matter of taste, and in every thing of that kind I defer to the superior refinement of our city fathers. But it cannot be disguised that the polite epithets of "traitors, Benedict Arnold and Judas Iscariot, who betrayed his lord and master for thirty pieces of silver," will be understood abroad as having a direct personal application to my esteemed colleague, Gen. Shields, and myself. Whatever may have been the intention of those who voted for the resolutions, I will do the members of the council the justice to say, that I do not believe they intended to make any such application. But their secret intentions are of little consequence, when they give their official sanction to a charge of infamy, clothed in such language that every man who reads it must give it a personal application. The whole affair, however, looks strange, and even ludicrous, when contrasted with the cordial reception and public demonstrations of kindness and confidence, and even gratitude for supposed services, extended to my colleague and myself upon our arrival in this city one week ago. Then we were welcomed home as public benefactors, and invited to partake of a public dinner, by an invitation numerously signed by men of all parties and shades of opinion. The invitation had no sooner been declined, for reasons which were supposed to be entirely satisfactory, and my colleague started for his home, than the common council, who are presumed to speak officially for the whole population of the city, attempted to brand their honored guests with infamy, and denounce them as Benedict Arnolds and Judas Iscariots! I have read somewhere that it was a polite custom, in other countries and a different age, to invite those whom they secretly wished to destroy to a feast, in order to secure a more convenient opportunity of administering the hemlock! I acquit the common council of any design of introducing that custom into our hospitable city. But I have done with this subject, so far as it has a personal bearing.

It is a far more important and serious matter, when viewed with reference to the principles involved, and the consequences which may result. The common council of the city of Chicago have assumed to themselves the right, and actually exercised the power, of determining the validity of an act of Congress, and have declared it void upon the ground that it violates the Constitution of the United States and the law of God! They have gone further; they declared, by a solemn official act, that a law passed by Congress "ought not to be respected by any intelligent community," and have called upon "the citizens, officers, and police of the city" to abstain from rendering any aid or assistance in its execution! What is this but naked, unmitigated nullification? An act of the American Congress nullified by the common council of the city of Chicago! Whence did the council derive their authority? I have been able

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to find no such provision in the city charter, nor am I aware that the legislature of Illinois is vested with any rightful power to confer such authority. I have yet to learn that a subordinate municipal corporation is licensed to raise the standard of rebellion, and throw off the authority of the Federal Government, at pleasure! This is a great improvement upon South Carolinian nullification. It dispenses with the trouble, delay, and expense of convening legislatures and assembling conventions of the people, for the purpose of resolving themselves back into their original elements, preparatory to the contemplated revolution. It has the high merit of marching directly to its object, and by a simple resolution, written and adopted on the same night, relieving the people from their oaths and allegiance, and of putting the nation and its laws at defiance! It has heretofore been supposed, by men of antiquated notions, who have not kept up with the progress of the age, that the Supreme Court of the United States was invested with the power of determining the validity of an act of Congress passed in pursuance of the forms of the Constitution. This was the doctrine of the entire North, and of the nation, when it became necessary to exert the whole power of the Government to put down nullification in another portion of the Union. But the spirit of the age is progressive, and is by no means confined to advancement in the arts and physical sciences. The science of politics and of government is also rapidly advancing to maturity and perfection. It is not long since that I heard an eminent lawyer propose an important reform in the admirable judicial system of our State, which, he thought, would render it perfect. It was so simple and eminently practicable, that it could not fail to excite the admiration of even the casual inquirer. His proposition was, that our judicial system should be so improved as to allow an appeal, on all constitutional questions, from the supreme court of this State to two justices of the peace! When that shall have been effected, but one other reform will be necessary to render our national system perfect, and that is, to change the federal Constitution, so as to authorize an appeal, upon all questions touching the validity of acts of Congress, from the Supreme Court of the United States to the common council of the city of Chicago!

So much for the general principles involved in the acts of the council. I will now examine briefly the specific grounds of objection urged by the council against the Fugitive Slave bill, as reasons why it should not be obeyed.

The objections are two in number: first, that it suspends the writ of habeas corpus in time of peace, in violation of the Constitution; secondly, that it abolishes the right of trial by jury.

How the council obtained the information that these two odious provisions were contained in the law, I am unable to divine. One thing is certain, that the members of the council, who voted for these resolutions, had never read the law, or they would have discovered their mistake. There is not one word in it in respect to the writ of habeas corpus or the right of trial by jury. Neither

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of these subjects is mentioned or referred to. The law is entirely silent on those points. Is it to be said that an act of Congress, which is silent on the subject, ought to be construed to repeal a great constitutional right by implication? Besides, this act is only an amendment—amendatory of the old law—the act of 1793—but does not repeal it. There is no difference between the original act and the amendment, in this respect. Both are silent in regard to the writ of habeas corpus and the right of trial by jury. If to be silent is to suspend the one and abolish the other, then the mischief was done by the old law fifty-seven years ago. If this construction be correct, the writ of habeas corpus has been suspended, and trial by jury abolished, more than half a century, without anybody ever discovering the fact, or, if knowing it, without uttering a murmur of complaint.

Mr. DOUGLAS then read the whole of the act of 1793, and compared its provisions with the amendment of last session, for the purpose of showing that the writ of habeas corpus and the right of trial by jury were not alluded to or interfered with by either. But I maintain, said Mr. D., that the writ of habeas corpus is applicable to the case of the arrest of a fugitive under this law, in the same sense in which the Constitution intended to confer it, and to the fullest extent for which that writ is ever rightfully issued in any case. In this I am fully sustained by the opinion of Mr. Crittenden, the Attorney General of the United States. As soon as the bill passed the two Houses of Congress, an abolition paper raised the alarm that the habeas corpus had been suspended. The cry was eagerly caught up, and transmitted, by lightning, upon the wires, to every part of the Union, by those whose avocation is agitation. The President of the United States, previous to signing the bill, referred it to the Attorney General, for his opinion upon the point whether any portion of it violated any provision of the Constitution of the United States, and especially whether it could possibly be construed to suspend the writ of habeas corpus. I have the answer of the Attorney General before me, in which he gives it as his decided opinion that every part of the law is entirely consistent with the Constitution, and that it does not suspend the writ of habeas corpus. I would commend the argument of the Attorney General to the careful perusal of those who have doubts upon the subject. Upon the presentation of this opinion, and with entire confidence in its correctness, President Filmore signed the bill.

[Here Mr. DOUGLAS was interrupted by a person present, who called his attention to the last clause of the 6th section of the bill, which he read, and asked him what construction he put upon it, if it did not suspend the writ of habeas corpus.]

Mr. Douglas, in reply, expressed his thanks to the gentleman who propounded the inquiry. His object was to meet every point, and remove every doubt that could possibly be raised; and he expressed the hope that every

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gentleman present would exercise the privilege of asking him questions upon all points upon which he was not fully satisfied. He then proceeded to answer the question which had been propounded. That section of the bill provides for the arrest of the fugitive and the trial before the commissioner; and, if the facts of servitude, ownership, and escape be established by competent evidence, the commissioner shall grant a certificate to that effect, which certificate shall be conclusive of the right of the person in whose favor it is issued to remove the fugitive to the State from which he fled. Then comes the clause which is supposed to suspend the habeas corpus: "*And shall prevent all molestation of said person or persons by any process issued by any court, judge, magistrate, or other person whomsoever.*"

The question is asked, whether the writ of habeas corpus is not a "PROCESS" within the meaning of this act? I answer, that it undoubtedly is such a "process," and that it may be issued by any court or judge having competent authority—not for the purpose of "molesting" a claimant, having a servant in his possession, with such a certificate from the commissioner or judge, but for the purpose of ascertaining the fact whether he has such a certificate or not; and if so, whether it be in due form of law; and if not, by what authority he holds the servant in custody. Upon the return of the writ of habeas corpus, the claimant will be required to exhibit to the court his authority for conveying that servant back; and if he produces a "certificate" from the commissioner or judge, in due form of law, the court will decide that it has no power to "molest the claimant" in the exercise of his rights under the law and the Constitution. But if the claimant is not able to produce such certificate, or other lawful authority, or produces one which is not in conformity with law, the court will set the alleged servant at liberty, for the very reason that the law has not been complied with. The sole object of the writ of habeas corpus is to ascertain by what authority a person is held in custody; to release him, if no such authority be shown; and to refrain from any molestation of the claimant, if legal authority be produced. The habeas corpus is necessary, therefore, to carry the Fugitive law into effect, and, at the same time, to prevent a violation of the rights of freemen under it. It is essential to the security of the claimant, as well as the protection of the rights of those liable to be arrested under it. The reason that the writ of habeas corpus was not mentioned in the bill must be obvious. The object of the new law seems to have been, to amend the old one in those particulars wherein experience had proven amendments to be necessary, and in all other respects to leave it as it had stood from the days of Washington. The provisions of the old law have been subjected to the test of long experience—to the scrutiny of the bar and the judgment of the courts. The writ of habeas corpus had been adjudged to exist in all cases under it, and had always been resorted to when a proper case arose. In

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amending the law there was no necessity for any new provision upon this subject, because nobody desired to change it in this respect.

But why this extraordinary effort, on the part of the professed friends of the fugitive, to force such a construction upon the law, in the absence of any such obnoxious provision, as to deprive him of the benefit of the writ of habeas corpus? The law does not do so in terms; and if it is ever accomplished, it must be done by implication, contrary to the understanding of those who enacted it, and in opposition to the practice of the courts, acquiesced in by the people, from the foundation of the government. One would naturally suppose, that if there was room for doubt as to what is the true construction, those who claim to be the especial and exclusive friends of the negro would contend for that construction which is most favorable to liberty, justice, and humanity. But not so. Directly the reverse is the fact. They exhaust their learning, and exert all their ingenuity and skill, to deprive the negro of all rights under the law. What can be the motive? Certainly not to protect the rights of the free, or to extend liberty to the oppressed; for they strive to fasten upon the law such a construction as would defeat both of these ends. Can it be a political scheme, to render the law odious, and to excite prejudice against all who voted for it, or were unavoidably absent when it passed? No matter what the motive, the effect would be disastrous to those whose rights they profess to cherish, if their efforts should be successful.

Now, a word or two in regard to the right of trial by jury. The city council, in their resolutions, say that this law abolishes that right. I have already shown you that the council are mistaken—that the law is silent upon the subject, and stands now precisely as it has stood for half a century. If the law is defective on that point, the error was committed by our fathers in 1793, and the people have acquiesced in it ever since, without knowing of its existence or caring to remedy it. The new act neither takes away nor confers the right of trial by jury. It leaves it just where our fathers and the Constitution left it under the old law. That the right of trial by jury exists in this country for all men, black or white, bond or free, guilty or innocent, no man will be disposed to question who understands the subject. The right is of universal application, and exists alike in all the States of the Union; it always has existed, and always will exist, so long as the Constitution of the United States shall be respected and maintained, in spite of the efforts of the abolitionists to take it away by a perversion of the Fugitive law. The only question is, *where* shall this jury trial take place? Shall the jury trial be had in the State where the arrest is made, or the State from which the fugitive escaped? Upon this point the act of last session says nothing, and, of course, leaves the matter as it stood under the law of '93. The old law was silent on this point, and therefore left the courts to decide it in accordance with the Constitution. The highest judicial tribunals in the land have always held that the jury trial must take place in the State under whose

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jurisdiction the question arose, and whose laws were alleged to have been violated. The same construction has always been given to the law for surrendering fugitives from justice. It provides also for sending back the fugitive, but says nothing about the jury trial, or where it shall take place. Who ever supposed that that act abolished the right of trial by jury? Every day's practice and observation teach us otherwise. The jury trial is always had in the State from which the fugitive fled. So it is with a fugitive from labor. When he returns, or is surrendered under the law, he is entitled to a trial by jury of his right of freedom, and always has it when he demands it. There is great uniformity in the mode of proceeding in the courts of the southern States in this respect. When the supposed slave sets up his claim, to the judge or other officer, that he is free, and claims his freedom, it becomes the duty of the court to issue its summons to the master to appear in court with the alleged slave, and there to direct an issue of freedom or servitude to be made and tried by a jury. The master is also required to enter into bonds for his own appearance and that of the alleged slave at the trial of the cause, and that he will not remove the slave from the county or jurisdiction of the court in the mean time. The court is also required to appoint counsel to conduct the cause for the slave, while the master employs his own counsel. All the officers of the court are required by law to render all facilities to the slave for the prosecution of his suit free of charge, such as issuing and serving subpœnas for witnesses, &c. If upon the trial the alleged slave is held to be a free man, the master is required to pay the costs on both sides. If, on the other hand, he is held to be a slave, the State pays the costs. This is the way in which the trial by jury stood under the old law; and the new one makes no change in this respect. If the act of last session be repealed, that will neither benefit nor injure the fugitive, so far as the right of trial by jury is concerned.

For these two reasons—the habeas corpus and the trial by jury—the common council have pronounced the law unconstitutional, and declared that it ought not to be respected by an enlightened community. I have shown that neither of the objections are well founded, and that if they had taken the trouble to read the law before they nullified it, they would have avoided the mistake into which they have fallen. I have spoken of the acts of the city council in general terms, and it may be inferred that the vote was unanimous. I take pleasure in stating that I learn from the published proceedings that there was barely a quorum present, and that Aldermen Page and Williams voted in the negative.

Having disposed of the two reasons assigned by the common ccuncil for the nullification of the law, I shall be greatly indebted to any gentleman who will point out any other objection to the new law, which does not apply with equal force to the old one. My object in drawing the parallel between the new and old law is this : The law of '93 was passed by the patriots and sages who framed our glorious Constitution, and approved by the father of his country.

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I have always been taught to believe that they were men well versed in the science of government, devotedly attached to the cause of freedom, and capable of construing the Constitution in the spirit in which they made it. That act has been enforced and acquiesced in for more than half a century, without a murmur or word of complaint from any quarter.

I repeat—will any gentleman be kind enough to point out a single objection to the new law, which might not be urged with equal propriety to the act of '93?

[Here a gentleman present rose, and called the attention of Mr. DOUGLAS to the penalties in the seventh section of the new law, and desired to know if there were any such obnoxious provisions in the old one.]

Mr. DOUGLAS then read the section referred to, and also the fourth section of the act of '93, and proceeded to draw the parallel between them. Each makes it a criminal offence to resist the due execution of the law; to knowingly and wilfully obstruct or hinder the claimant in the arrest of the fugitive; to rescue such fugitive from the claimant when arrested; to harbor or conceal such person after notice that he or she was a fugitive from labor. In this respect the two laws were substantially the same in every important particular. Indeed the one was almost a literal copy of the other. I can conceive of no act which would be an offence under the one, that would not be punishable under the other. In the speeches last night, great importance was given to the clause which makes it an offence to harbor or conceal a fugitive. You were told that you could not clothe the naked, nor feed the hungry, nor exercise the ordinary charities towards suffering humanity, without incurring the penalty of the law. Is this a true construction of that provision? The act does not so read. The law says that you shall not "harbor or conceal such fugitive, *so as to prevent the discovery and arrest* of such person after notice or knowledge of the fact that such person was a fugitive from service or labor as aforesaid." This does not deprive you of the privilege of extending charities to the fugitive. You may feed him, clothe him, may lodge him, provided you do not harbor or conceal him, so as to prevent discovery and arrest, after notice or knowledge that he is a fugitive. The offence consists in preventing the discovery and arrest of the fugitive after knowledge of the fact, and not in extending kindness and charities to him. This is the construction put upon a similar provision in the old law by the highest judicial tribunals in the land. The only difference between the old law and the new one, in respect to obstructing its execution, is to be found in the amount of the penalty, and not in the principle involved.

But it is further objected that the new law provides, in addition to the penalty for a civil suit for damages, to be recovered by an action of debt by any court having jurisdiction of the cause. This is true; but it is also true that a similar

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provision is to be found in the old law. The concluding clause in the last section of the act of '93 is as follows :

"Which penalty may be recovered by and for the benefit of such claimant, by action of debt, in any proper court to try the same; *saving, moreover, to the person claiming such labor or service, his right of action for or on account the said injuries, or either of them.*"

Thus it will be seen, that upon this point there is no difference between the new and the old law.

Is there any other provision of this law upon which explanation is desired?

[A gentleman present referred to the 10th section, and desired an explanation of the object and effect of the record from another State therein provided for.]

I am glad, said Mr. D., that my attention has been called to that provision; for I heard a construction given to it, in the speeches last night, entirely different to the plain reading and object of that section. It is said, that this provision authorizes the claimant to go before a court of record of the county and State where he lives, and there establish by ex parte testimony, in the absence of the fugitive, the facts of servitude, of ownership, and escape; and when a record of these facts shall have been made, containing a minute description of the slave, it shall be conclusive evidence against a person corresponding to that description, arrested in another State, and shall consign the person so arrested to perpetual servitude. The law contemplates no such thing, and authorizes no such result. I have the charity to believe that those who have put this construction upon it have not carefully examined it. The record from another State predicated upon "satisfactory proof to such court or judge" before whom the testimony may be adduced, and the record made, is to be conclusive of two facts only:

1st. That the person named in the record does owe service to the person in whose behalf the record is made.

2d. That such person has escaped from service.

The language of the law is, that "the transcript of the record authenticated," &c., "shall be held and taken to be full and conclusive evidence of the fact of escape, and that the service or labor of such person escaping is due to the party in such record mentioned." The record is conclusive of these two facts, so far as to authorize the fugitive to be sent back for trial under the laws of the State whence he fled; *but it is no evidence that the person arrested here is the fugitive named in the record.* The question of *identity* is to be proven here to the satisfaction of the commissioner or judge, before whom the trial is had, by "*other and further evidence.*" This is the great point in the case. The whole question turns upon it. The man arrested may correspond to the description set forth in the record, and yet not be the same individual. We

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often meet persons resembling each other to such an extent that the one is frequently mistaken for the other. The identity of the person becomes a matter of proof—a fact to be established by the testimony of competent and disinterested witnesses, and to be decided by the tribunal before whom the trial is had, conscientiously and impartially, according to the evidence in the case. The description in the record, unsupported by other testimony, is not evidence of the identity. It is not inserted for the especial benefit of the claimant—much less to the prejudice of the alleged slave. It is required as a test of truth, a safe-guard against fraud, which will often operate favorably to the fugitive, but never to his injury. If the description be accurate and true, no injustice can possibly result from it. But if it be erroneous or false, the claimant is concluded by it; and the fugitive, availing himself of the error, defeats the claim, in the same manner as a discrepancy between the allegations and the proof, in any other case, results to the advantage of the defendant. I repeat, that when an arrest is made under a record from another State, the identity of the person must be established by competent testimony. The trial, in this instance, would be precisely the same as in the case of a white man arrested on the charge of being a fugitive from justice. The writ of the governor, predicated upon an indictment, or even an affidavit, from another State, containing the charge of crime, would be conclusive evidence of the right to take the fugitive back; but the identity of the person in that case, as well as a fugitive from labor, must be proven in the State where the arrest is made, by competent witnesses, before the tribunal provided by law for that purpose. In this respect, therefore, the negro is placed upon a perfect equality with the white man who is so unfortunate as to be charged with an offence in another State, whether the charge be true or false. In some respects, the law guards the rights of the negro, charged with being a fugitive from labor, more rigidly than it does those of a white man who is alleged to be a fugitive from justice. The record from another State must be predicated upon "proof satisfactory to the court or judge" before whom it is made, and must set forth the "matter proved," before it can be evidence against a fugitive from labor, or for any purpose; whereas, an innocent white man, who is so unfortunate as to be falsely charged with a crime in another State, by the simple affidavit of an unknown person, without indictment, or proof to the satisfaction of any court, is liable to be transported to the most distant portions of this Union for trial.

Here we find the act of last session is a great improvement upon the law of '93 in reference to fugitives, white or black, whether they fled from justice or labor. But it is objected that the testimony before the court making the record is *ex parte*, and therefore in violation of the principles of justice and the Constitution, because it deprives the accused of the privilege of meeting the witnesses face to face, and of cross examination. Gentlemen forget that all proceedings for the arrest of fugitives are necessarily *ex parte*, from the nature of

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the case. They have fled beyond the jurisdiction of the court, and the object of the proceeding is that they may be brought back, confront the witnesses, and receive a fair trial according to the constitution and laws. If they would stay at home in order to attend the trial and cross examine the witnesses, the record would be unnecessary, and the Fugitive law in operative. It is no answer to this proposition to say that slavery is no crime, and therefore the parallel does not hold good. I am not speaking of the guilt or innocence of slavery. I am discussing our obligations under the constitution of the United States. That sacred instrument says that a fugitive from labor "*shall be delivered up* on the claim of the owner. The same clause of the same instrument provides that fugitives from justice shall be delivered up. We are bound by our oaths to our God to see that claim as well as every other provision of the Constitution carried into effect. The moral, religious, and constitutional obligations resting upon us, here and hereafter, are the same in the one case as in the other. As citizens, owing allegiance to the Government and duties to society, we have no right to interpose our individual opinions and scruples as excuses for violating the supreme law of the land as our fathers made it, and as we are sworn to support it. The obligation is just as sacred, under the Constitution, to surrender fugitives from labor as fugitives from justice. And the Congress of the United States, according to the decision of the Supreme Court, are as imperatively commanded to provide the necessary legislation for the one as for the other. The act of 1793, to which I have had occasion to refer so frequently, and which has been read to you, provided for these two cases in the same bill. The first half of that act, relating to fugitives from justice, applies, from the nature and necessity of the case, principally to white men; and the other half, for the same reasons, applies exclusively to the negro race. I have shown you, by reading and comparing the two laws in your presence, that there is no constitutional guaranty—or common law right—or legal, or judicial privilege—for the protection of the white man against oppression and injustice, under the law, framed in 1793, and now in force, for the surrender of fugitives from justice, that does not apply in all its force in behalf of the negro, when arrested as a fugitive from labor, under the act of the last session. What more can the friends of the negro ask than, in all his civil and legal rights under the Constitution, he shall be placed on an equal footing with the white man? But it is said that the law is susceptible of being abused by perjury and false testimony. To what human enactment does not the same objection lie? You, or I, or any other man, who was never in California in his life, are liable, under the constitution, to be sent there in chains for trial as a fugitive from justice by means of perjury and fraud. But does this fact prove that the Constitution, and the laws for carrying it into effect, are wrong, and should be resisted, as we were told last night, even unto the dungeon, the gibbet, and the grave? It only demonstrates to us the necessity of providing all the safeguards, that the

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wit of man can devise, for the protection of the innocent and the free, at the same time that we religiously enforce, according to its letter and spirit, every provision of the Constitution. I will not say that the act recently passed for the surrender of fugitives from labor accomplishes all this; but I will thank any gentleman to point out any one barrier against abuse in the old law, or in the law for the surrender of white men, as fugitives from justice, that is not secured to the negro under the new law. I pause in order to give any gentleman an opportunity to point out the provision. I invite inquiry and examination. My object is to arrive at the truth—to repel error and dissipate prejudice—and to avoid violence and bloodshed. Will any gentleman point out the provision in the old law, for securing and vindicating the rights of the free man, that is not secured to him in the act of last session?

[A gentleman present rose and called the attention of Mr. DOUGLAS to the provision for paying out of the Treasury of the United States the expenses of carrying the fugitive back in case of anticipated resistance.]

Ah, said Mr. D., that is a question of dollars and cents, involving no other principle than the costs of the proceeding! I was discussing the question of human rights—the mode of protecting the rights of freemen from invasion, and the obligation to surrender fugitives under the Constitution. Is it possible that this momentous question, which, only forty-eight hours ago, was deemed of sufficient importance to authorize the city council to nullify an act of Congress, and raise the standard of rebellion against the Federal Government, has dwindled down into a mere petty dispute, who shall pay the costs of suit? This is too grave a question for me to discuss on this occasion. I confess my utter inability to do it justice. Yesterday the Constitution of the ocean-bound Republic had been overthrown; the privileges of the writ of habeas corpus had been suspended; the right of trial by jury had been abolished; pains and penalties had been imposed upon every humane citizen who should feed the hungry and cover the naked; the law of God had been outraged by an infamous act of a traitorous Congress; and the standard of rebellion, raised by our city fathers, was floating in the breeze, calling on all good citizens to rally under its sacred folds, and resist with fire and sword——the payment of the costs of suit upon the arrest of a fugitive from labor!

I will pass over this point, and inquire whether there is any other provision of this law upon which an explanation is desired? I hope no one will be backward in propounding inquiries, for I have but a few days to remain with you, and desire to make a clean business of this matter on the present occasion. Is there any other objection?

[A gentleman rose, and desired to know why the bill provides for paying ten dollars to the commissioner for his fee in case he decided in favor of the claimant, and only five dollars if he decided against him.]

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I presume, said Mr. Douglas, the reason was that he would have more labor to perform. If, after hearing the testimony, the commissioner decided in favor of the claimant, the law made it his duty to prepare and authenticate the necessary papers to authorize him to carry the fugitive home; but if he decided against him, he had no such labor to perform. The law seems to be based upon the principle that the commissioner should be paid according to the service he should render—five dollars for presiding at the trial, and five dollars for making out the papers in case the testimony should require him to return the fugitive. This provision appears to be exciting considerable attention in the country, and I have been exceedingly gratified at the proceedings of a mass meeting held in a county not far distant, in which it was resolved unanimously that they could not be bribed, for the sum of five dollars, to consign a freeman to perpetual bondage! This shows an exalted state of moral feeling, highly creditable to those who participated in the meeting. I doubt not they will make their influence felt throughout the State, and will instruct their members of the legislature to reform our criminal code in this respect. Under our laws, as they have stood for many years, and probably from the organization of our State government, in all criminal cases, on the preliminary examination before the magistrates, and in all the higher courts, if the prisoner be convicted, the witnesses, jurors, and officers are entitled to their fees and bills of costs; but if he be acquitted, none of them receive a cent. In order to diffuse the same high moral sense throughout the whole community, would it not be well, at their next meeting, to pass another resolution, that they would not be bribed by the fees and costs of suit in any case, either as witnesses, jurors, magistrates, or in any other capacity, to consign an innocent man to a dismal cell in the penitentiary, or expose him to an ignominious death upon the gallows? Such a resolution might do a great deal of good in elevating the character of our people abroad, at the same time that it might inspire increased confidence in the liberality and conscientiousness of those who adopted it!

Is there any other objection to this law?

[A gentleman rose, and called the attention of Mr. Douglas to the provision vesting the appointment of the Commissioners under it in the courts of law, instead of the President and Senate, and asked if that was not a violation of that provision of the Constitution which says that Judges of the Supreme Courts, and of the inferior courts, should be appointed by the President and Senate.]

I thank the gentleman, said Mr. D., for calling my attention to this point. It was made in the speech of a distinguished lawyer last night, and evidently produced great effect upon the minds of the audience. The gentleman's high professional standing, taken in connexion with his laborious preparation for the occasion, as was apparent to all, from his lengthy written brief before him,

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while speaking, inspired implicit confidence in the correctness of his position. My answer to the objection will be found in the Constitution itself, which I will read, so far as it bears upon this question :

"The President shall nominate, and by and with the consent of the Senate, shall appoint ambassadors, other public ministers, and consuls, Judges of the Supreme Court, and all other officers of the United States, where appointments are not herein otherwise provided for, and which shall be established by law."

Now it will be seen that the words "inferior courts" are not mentioned in the Constitution. The gentleman in his zeal against the law, and his frenzy to resist it, interpolated these words, and then made a plausible argument upon them. I trust this was all unintentional, or was done with the view of fulfilling the "higher law." But there is another sentence in this same clause of the Constitution which I have not yet read. It is as follows:

"But the Congress may by law vest the appointment of such *inferior officers* as they think proper in the President alone, *in the Courts of Law*, or in the heads of Departments."

The practise under this clause has usually been to confer the power of appointing those inferior officers, whose duties were executive or ministerial, upon the President alone, or upon the head of the appropriate department; and in like manner to give to the courts of law the privilege of appointing their subordinates, whose duties were in their nature judicial. What is meant by "inferior officers," whose appointment may be vested in the "courts of law," will be seen by reference to the 8th section of the Constitution, where the powers of Congress are enumerated, and among them is the following :

"To constitute tribunals *inferior to the Supreme Court.*"

Is the tribunal which is to carry the fugitive law into effect inferior to the Supreme Court of the United States ? If it is, the Constitution expressly provides for vesting the appointment in the courts of law. I will remark, however, that these commissioners are not appointed under the new law, but in obedience to an act of Congress which has stood on the statute books for many years. If those who denounce and misrepresent the act of last session, had condescended to read it before they undertook to enlighten the people upon it, they would have saved themselves the mortification of exposure, as I will show by reading the first section.

Here Mr. Douglas read the law, and proceeded to remark : Thus it will be seen that these commissioners have been in office for years, with their duties prescribed by law, nearly all of which were of a judicial character, and that the new law only imposes additional duties, and authorizes the increase of the number. Why has not this grave constitutional objection been discovered before, and the people informed how their rights have been outraged in violation of the supreme law of the land ? Truly, the passage of the Fugitive bill has thrown a flood of light upon constitutional principles !

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Is there any other objection to the new law which does not apply to the act of '93?

[A gentleman rose, and said that he would like to ask another question, which was this: if the new law was so similar to the old one, what was the necessity of passing any at all, since the old one was still in force?]

Mr. DOUGLAS, in reply, said, that is the very question I was anxious some one should propound, because I was desirous of an opportunity of answering it. The old law answered all the purposes for which it was enacted tolerably well, until the decision by the Supreme Court of the United States, in the case of Priggs vs. the State of Pennsylvania, eight or nine years ago. That decision rendered the law comparatively inoperative, for the reason that there was scarcely any officers left to execute it. It will be recollected that the act of '93 imposed the duty of carrying it into effect upon the magistrates and other officers under the State governments. These officers performed their duties under that law, with fidelity, for about fifty years, until the Supreme Court, in the case alluded to, decided that they were under no legal obligation to do so, and that Congress had no constitutional power to impose the duty upon them. From that time, many of the officers refused to act, and soon afterwards the legislature of Massachusetts, and many other States, passed laws making it criminal for their officers to perform these duties. Hence the old law, although efficient in its provisions, and similar in most respects, and especially in those now objected to, almost identical with the new law, became comparatively a dead letter for want of officers to carry it into effect. The judges of the United States courts were the only officers left who were authorized to execute it. In this State for instance, Judge Drummond, whose residence was in the extreme northwest corner of the State, within six miles of Wisconsin and three of Iowa, and in the direction where fugitives were least likely to go, was the only person authorized to try the case.

If a fugitive was arrested at Shawneetown or Alton, three or four hundred miles from the residence of the judge, the master would attempt to take him across the river to his home in Kentucky or Missouri, without first establishing his right to do so. This was calculated to excite uneasiness and doubts in the minds of our citizens, as to the propriety of permitting the negro to be carried out of the State, without the fact of his owing service, and having escaped, being first proved, lest it might turn out that the negro was a free man and the claimant a kidnapper. And yet, according to the express terms of the old law, the master was authorized to seize his slave wherever he found him, and to carry him back without process, or trial, or proof of any kind whatsoever. Hence, it was necessary to pass the act of last session, in order to carry into effect, in a peaceable and orderly manner, the provisions of the law and the Constitution on the one hand, and to protect the free colored man from being kidnapped and sold into slavery by unprincipled men on the other hand. The

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purpose of the new law is to accomplish these two objects—to appoint officers to carry the law into effect, in the place of the magistrates relieved from that duty by the decision of the Supreme Court, and to guard against harassing and kidnapping the free blacks, by preventing the claimant from carrying the negro out of the State, until he establishes his legal right to do so. The new law, therefore, is a great improvement in this respect upon the old one, and is more favorable to justice and freedom, and better guarded against abuse.

[A person present asked leave to propound another question to Mr. Douglas, which was this: "If the new law is more favorable to freedom than the old one, why did the southern slaveholders vote for it, and desire its passage?"]

Mr. Douglas said he would answer that question with a great deal of pleasure. The southern members voted for it for the reason that it was a better law than the old one—better for them, better for us, and better for the free blacks. It places the execution of the law in the hands of responsible officers of the government, instead of leaving every man to take the law into his own hands and to execute it for himself. It affords personal security to the claimant while arresting his servant and taking him back, by providing him with the opportunity of establishing his legal rights by competent testimony before a tribunal duly authorized to try the case, and thus allay all apprehensions and suspicions, on the part of our citizens, that he is a villain, attempting to steal a free man for the purpose of selling him into slavery. The slaveholder has as strong a desire to protect the rights of the free black man as we have, and much more interest to do so; for he well knows, that if outrages should be tolerated under the law, and free men are seized and carried into slavery; from that moment the indignant outcry against it would be so strong here and everywhere, that even a fugitive from labor could not be returned, lest he also might happen to be free. The interest of the slaveholder, therefore, requires a law which shall protect the rights of all free men, black or white, from any invasion or violation whatever. I ask the question, therefore, whether this law is not better than the old one—better for the North and the South—better for the peace and quiet of the whole country? Let it be remembered that this law is but an amendment to the act of '93, and that the old law still remains in force, except so far as it is modified by this. Every man who voted against this modification, thereby voted to leave the old law in force; for I am not aware that any member of either House of Congress ever had the hardihood to propose to repeal the law, and make no provisions for carrying the Constitution into effect. But the cry of repeal, as to the new law, has already gone forth. Well, suppose it succeeds; what will those have gained who joined in the shout? Have I not shown that all the material objections they urge against the new law, apply with equal force to the old one? What do they gain, therefore, unless they propose to repeal the old law, also, and make no provision for performing our obligations under the Constitution? This must be the object of all

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